

HOUSE BILL NO. 25

INTRODUCED BY J. SHOCKLEY

A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING GENERAL FUND EXPENDITURES BY PROVIDING FOR THE DISCHARGE OF INMATES UP TO 1 YEAR BEFORE THEY WOULD OTHERWISE BE DISCHARGED IF A CORRECTIONAL INSTITUTION OR SYSTEM EXCEEDS ITS OPERATION CAPACITY; ELIMINATING THE REQUIREMENT THAT THE DEPARTMENT OF CORRECTIONS REIMBURSE COUNTIES FOR HOLDING NEW INMATES; AMENDING SECTIONS 46-23-201 AND 53-30-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Early discharge because of excessive inmate population.** A sentence is reduced by the amount of an early discharge under 53-30-106.

Section 2. Section 46-23-201, MCA, is amended to read:

"46-23-201. Prisoners eligible for nonmedical parole. (1) Subject to an early discharge under 53-30-106 and the restrictions contained in subsections (2) through (4) of this section, the board may release on nonmedical parole by appropriate order any person confined in a state prison, except persons under sentence of death and persons serving sentences imposed under 46-18-202(2) or 46-18-219, when in its opinion there is reasonable probability that the prisoner can be released without detriment to the prisoner or to the community.

(2) A prisoner serving a time sentence may not be paroled under this section until the prisoner has served at least one-fourth of the prisoner's full term.

(3) A prisoner serving a life sentence may not be paroled under this section until the prisoner has served 30 years.

(4) A parole may be ordered under this section only for the best interests of society and not as an award of clemency or a reduction of sentence or pardon. A prisoner may be placed on parole only when the board believes that the prisoner is able and willing to fulfill the obligations of a law-abiding citizen."

1 **Section 3.** Section 53-30-106, MCA, is amended to read:

2 **"53-30-106. Excessive inmate population -- early discharge of inmates and confinement of**
3 **inmates in other institutions.** (1) If the inmate population of a correctional institution or system exceeds the
4 emergency capacity at which it can operate within existing monetary or physical and staffing limitations for 30
5 consecutive days, the director of the department of corrections may declare that the emergency correctional
6 institution or system exceeds its operation capacity ~~has been exceeded and temporarily stop admissions to the~~
7 ~~institution or system~~ and may, if subsection (2) is complied with, take action under subsection (3) until the
8 director determines that the operation capacity is restored. The necessity of accommodating new inmates is
9 grounds for declaring that a correctional institution or system exceeds its operation capacity. ~~The director shall~~
10 ~~notify each sheriff and district court that new inmates will not be accepted by the department for admission into~~
11 ~~the institution or system until the inmate population is reduced to 95% or less of the emergency capacity.~~
12 ~~Persons committed to the department and persons sought to be admitted remain in the department's legal~~
13 ~~custody but must be kept in a detention center in the jurisdiction holding them. In the event the jurisdiction~~
14 ~~holding the inmate is at maximum capacity, the inmate may be placed in an available detention center in another~~
15 ~~jurisdiction. The department shall reimburse that jurisdiction for the cost of detention for the period beyond the~~
16 ~~normal time of delivery to a correctional institution administered by the department. Reimbursement must be at~~
17 ~~a rate mutually agreeable to the department and the jurisdiction holding the person. The rate must cover the~~
18 ~~reasonable costs of the holding jurisdiction. Expenses for medication, medical services, or hospitalization for~~
19 ~~persons confined in a detention center under this section must be paid by the department.~~

20 (2) Before the director may declare that a correctional institution or system exceeds its operation
21 capacity, the director shall submit to the governor and the legislative finance committee, and the governor and
22 committee shall review, the department's data supporting the proposed declaration and the governor shall certify
23 either that:

24 (a) a revenue shortfall exists and the correctional institution or system has more inmates than the
25 number of inmates for which it was budgeted; or

26 (b) there are more inmates in the correctional institution or system than it may accommodate under its
27 physical and staffing limitations.

28 (3) After a declaration is made and subsection (2) is complied with, a dischargeable inmate of the
29 correctional institution or system may, until the director determines that operation capacity is restored, be
30 discharged up to 1 year prior to the time that the inmate would otherwise be discharged.

(2)(4) The department may enter into contracts with the federal government, other states, or the commissioners of counties that have suitable detention centers for confining inmates committed to a correctional institution or system administered by the department, either because a correctional institution or system has exceeded its emergency operation capacity or because the department has no institution that is adequate for certain inmates.

6 ~~(3)(5)~~ Within budgetary limits, the department may also enter into contracts with public or private
7 corporations for the confinement of selected inmates if suitable programs have been established."

9 **NEW SECTION.** **Section 4. Codification instruction.** [Section 1] is intended to be codified as an
10 integral part of Title 46, chapter 18, part 4, and the provisions of Title 46, chapter 18, part 4, apply to [section 1].

12 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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